

Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime & Boness (Associate Members)

The meeting opened at 7:05 p.m.

Petition No.: 3974

Premises affected: 1 Shipman Rd.

Petitioner: Holmes

Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime & Boness (Associate Members)

Brown made a motion to continue without opening the hearing to the February 15th meeting. McDonough seconded the motion and the Board voted unanimously to continue the hearing.

Petition No.: 3975

Premises affected: 28 Park St

Petitioner: JETICO

Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime & Boness (Associate Members)

Brown made a motion to continue without opening the hearing to the February 15th meeting. McDonough seconded the motion and the Board voted unanimously to continue the hearing.

Petition No.: 3969

Premises affected: 209 North Main Street

Petitioner: Andover Food Inc.

Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime & Boness (Associate Members)

McDonough made a motion to re-open deliberation only. Batchelder seconded the motion. Anderson explained that the re-opened deliberation is to address two issues: the owner didn't sign the application & proposed zoning bylaw changes for this year's town meeting that would affect 'take-out'. Anderson drafted a decision allowing the sit-down restaurant & temporary allowance for 20% or less for take-out. McDonough made a motion to reconsider the previous unanimous vote & tentative decision & to authorize a decision in conformance with Anderson's draft. Batchelder seconded the motion. Batchelder then made a motion to undo the vote at the prior deliberation on this matter & to reconsider Anderson's draft decision. McDonough seconded the motion & the Board voted unanimously to undo the prior vote & to reconsider Anderson's draft decision with the aforementioned changes. Batchelder made a motion to adopt Anderson's draft revised decision. McDonough seconded the motion & the Board voted unanimously to adopt Anderson's draft revised decision.

Petition No.: 3957

Premises affected: 400 South Main Street

Petitioner: Andover Montessori

Present were: Brown (Acting Chair); Jeton (Acting Clerk); Ranalli, Baime & Boness (Associate Members)

Heidi Steen Johnson & Yvonne Howard represented the school's request for a variance from Section 5.2.8.1.b to erect a free-standing sign that will exceed the maximum dimensions allowed. The Design Review Board advised limiting the sign to 25 sq. ft.

The new sign has a detachable message panel & will be 7' high. It will be located in the same location as the existing sign, setback 15' from the street. Boness suggested moving the on-site stop sign further back to not obstruct the school sign. There being no other comments or questions from the Board or the public, Baime made a motion to close the public hearing. Boness seconded the motion & the Board voted (5-0) to close the hearing. The Board proceeded to deliberate. The proposed sign exceeds the maximum area & height, therefore a variance is required. It is consistent with the neighborhood. Hardship relates to the speed of traffic, the topography of the lot (vegetation) & need for larger sign to increase safety & visibility. Brown made a motion to find that due to the area & height of the proposed sign exceeding the maximum allowed, to grant a variance and to deny the special permit on these grounds with the condition that the sign is installed in conformance with the submitted drawings. Jeton added that the sign be located so that vehicles entering/exiting the site will have unobstructed view of S. Main Street. Jeton made the amended motion & Baime seconded it. The Board voted (5-0) to grant the variance with conditions & deny the special permit. Ranalli will write the decision.

Petition No.: 3965

Premises affected: 21 (Off) Webster Street

Petitioner: Jeffco

Present were: Anderson (Chair); McDonough (Clerk); Jeton, Brown, Batchelder (Members); Ranalli, Baime & Boness (Associate Members)

No one was present for this continued case. The Board held the hearing to the end of the meeting to see if someone would appear to represent it.

Discussion Item: 311 Lowell St – Verizon (Anderson recused himself)

Attorney Carl Gehring, representing Verizon, explained that his client wishes to exchange one antenna temporarily & the most recent decision is equipment-specific. Brown suggested that the temporary antenna could be allowed as an insignificant change from the original decision. The Board discussed temporary as 6-9 months. Verizon is approved for 12 antennas at 80' and Section 6.1.11 allows modifications if there is no additional equipment. There will still be 12 antennas. After 6-9 months, the temporary antenna will be replaced. Boness asked for a spec sheet for the proposed antenna. The proposed antenna is a repeater that bounces signal from another site. The Board agreed that as long as there is no increase in surface area and that a letter is submitted from the Inspector of Buildings stating her agreement, the Board can approve the temporary antenna for up to 12 months. Gehring will draft a letter & submit it to the Board.

Petition No.: 3972

Premises affected: 34 Park Street

Petitioner: Salvatore's

Present were: Anderson (Chair); McDonough (Clerk); Jeton, Batchelder, Brown (Members); Ranalli, Baime, Boness (Associate Members)

This is a continued public hearing. Chris Smith & Sal Lupoli, business partners, updated the Board on what has changed since the last hearing: dedicated take-out parking, met with abutters regarding parking & review/explanation of parking requirements. Paul Materazzo, Director of Planning, made a brief presentation to the Board regarding his memo on parking for this site: in 1997 the site was approved as if it had 49 spaces but 39 were allowed and subsequently reduced to 32. He also commented on designated take-out parking spaces & the 2011 Town Meeting change to off-street parking requirements. There are at least 600 public parking spaces within ¼ mile radius of the site. Attorney Andrew Caffrey, representing Dylan's Restaurant, argued that the petition is premature & that with the change in use, more parking is required. Materazzo stated that the site complies with parking requirements. The Board discussed similar uses in the area, as well as the other uses on site that have different hours of operation, effectively making more parking spaces available, as well as the fact that less than 10% of business is take-out service.

Anderson noted the proposed Town Meeting article to amend Section 3.1.3.C.12.b of the Zoning Bylaw regarding the removal of take-out and to make it an accessory use to a primarily sit-down restaurant. If the Board allows a special permit now, conditions would be necessary, including the possible restriction to a particular owner/operator and no live entertainment. Lupoli agreed to an ownership condition, but explained that he does have a vocalist & 1-2 piece jazz set in other locations that he'd like to have in Andover as soft background music. The restaurant is predominantly sit-down, no drive-through service. Anderson reminded the Board that there is no request for a variance from the parking requirements. Paul Salafia, former Planning Board Chair, commented on parking requirements. Brown made a motion to close the public hearing. Ranalli seconded the motion & the Board voted unanimously to close the hearing. Ranalli sat off the deliberation. The Board proceeded to deliberate. The Board agreed that the bylaw is outdated regarding take-out food service & that such service is accessory to a sit-down restaurant. This proposal projects 10% of overall business to be take-out. The Board suggested that it is allowed by right & that a special permit could be granted procedurally with a restriction of no greater than 20% of overall business being take-out and not to place any restrictions on entertainment since the bylaw does not regulate it. Brown made a motion to make a finding that the application for a special permit under Art. VIII, §3.1.3.C.12.b to allow take-out as part of the sit-down restaurant is unnecessary because sit-down restaurant is the principle use, an allowed use, and that take-out is accessory to such use. McDonough seconded the motion & the Board voted (5-0) to deny the special permit as moot. Brown will write the decision.

Petition No.: 3965

Premises affected: 21 (Off) Webster Street

Petitioner: Jeffco

Present were: Brown (Acting Chair); Jeton (Acting Clerk); McDonough, Batchelder (Members); Ranalli, Baime (Associate Members)

A request to continue to the 2/2/12 meeting was received on 12/15/11. No one has appeared at this meeting on behalf of this petition. Brown suggested continuing the case to 3/1/12. The Board discussed a continuation. McDonough & Baime were in favoring of continuing. Not having a super majority, the Board did not continue the hearing to 3/1/12. Jeton made a motion to close the hearing. Ranalli seconded the motion & the Board voted (3-2) to close the hearing (McDonough & Ranalli opposed). The Board then proceeded to deliberate. The Board discussed the lack of sufficient materials & preparation of the applicant, as well as the confusion over which Board to file with first (ZBA or Conservation). The Board recalled that they had asked the applicant to appear before Conservation Commission before ZBA to have the contiguous uplands clause reviewed by that Board. Conservation Commission determined that the area of contiguous uplands was insufficient & there was no action taken by Conservation. The Board discussed denying the application. McDonough made a motion to reconsider the vote to not continue the hearing to 3/1. There being no second, Brown suggested that the Board vote to deny the application due to the applicant's failure to appear & submit a complete application. Ranalli made a motion to deny the application due to insufficient evidence to support the granting of the requested relief. Jeton seconded the motion & the Board voted (5-0) to deny the application. McDonough will write the decision.

There being no other business of the Board, the meeting was adjourned at 9:30 p.m.